

PLANNING COMMISSION MINUTES OF 04/11/05

2005-0029 – Arc Tec [Applicant] **Gdi Gibraltar LLC** [Owner]: Appeal of a Decision by the Director of Community Development denying an application for a Parcel Map to merge two 1.7-acre sites (2.4-acre total) to allow the subdivision of two existing industrial buildings into eight individual industrial condominium units on one common lot. The properties are located at **256 and 292 Gibraltar Drive** in an MP-TOD (Moffett Park Transit Oriented Development) Zoning District. (APN's: 110-34-015 and 110-34-016) JM

Gerri Caruso, Principal Planner, presented the staff report. The project consists of two adjacent parcels both with existing one-story buildings surrounded by parking and landscaping. The applicant proposes to subdivide the buildings into four units each for a total of eight industrial condominium units on one common lot and retain the existing use of the site as industrial office space and research and development. Proposed improvements include installation of sidewalks on Gibraltar Drive and upgrading of the landscaping. The project is located in the MP-TOD or Transit Oriented Development High-Intensity Area of the Moffett Park Specific Plan (MPSP). The project proposes to subdivide a low FAR structure located in an area that has been designated and targeted as a high FAR area. This item was heard at an Administrative Hearing and was denied by the Administrative Hearing Officer resulting in this appeal. At the hearing the applicant presented key issues including the two-year vacancy of the site, current market conditions, the buildings' remaining 20 years life span, and that the development could create approximately 136 new jobs. In order to meet the City's goal for this area it would involve the assemblage of land. It would be more difficult to assemble the land in the future if this site were subdivided and had multiple owners. Staff is asking the Commission to uphold the decision of the Administrative Hearing Officer and deny the subdivision due to its location in the MP-TOD Zoning District.

Comm. Sulser asked about the transfer of development rights mentioned in the staff report, specifically, what scenario staff was thinking of when it was added to the MPSP and how much flexibility there is in the MPSP. **Trudi Ryan**, Planning Officer, said that the transfer of development rights aren't being proposed at this time but that this site would have a lower FAR than desired and owners could choose to exercise their option to sell development rights to someone that wanted to increase their FAR. Approving this project would not be achieving the goal of a higher-intensity development near the transportation corridor. Multiple ownerships would lessen the opportunity to have higher-intensity development.

Chair Moylan questioned staff for more definition of Class A and Class C office space and asked if the FAR was the real issue. Ms. Caruso said the FAR is the real issue and gave definition of Class A from the MPSP. Staff confirmed that a Class A site would have a larger FAR.

Chair Moylan opened the public hearing.

Jim Fulton, applicant with Arc Tec, stated there is no proposed use change for the site as uses will remain office and industrial. The MPSP has a desired 50% FAR (not required) and calls for flexibility and ancillary uses. Mr. Fulton asked where the flexibility in the MPSP comes in. He stated that staff's vision seems to be only higher FAR projects like Class A office space. He added that the buildings are in good condition and have at least 20 years left. His group is proposing upgraded sidewalks and additional landscaping. He commented that the current proposed site is two, 1.7 acre pieces of property and that it would be nearly impossible to do a Class A project on these sites without assembling many other sites with them. Some benefits for converting these existing buildings into office condominiums are that it would allow small businesses to own their own property, would attract new businesses to Sunnyvale and provide a tax benefit for the City. The applicant feels there is still a need within the Moffett Park area to have this type of proposed use. At the Administrative Hearing there was discussion of possibly decreasing the number of units to six units if it better fits with the City's future plans. The applicant would like to see if City would consider this, if necessary.

Chair Moylan asked the applicant his definition of an ancillary service. Mr. Fulton said some examples are accounting offices, law firms and other service uses that would service the surrounding businesses. Chair Moylan asked the applicant if he knew the parking requirements for these ancillary commercial uses. Mr. Fulton thought the parking requirements would be the same as office use.

Terry Deveau, member of applicant's team, gave statistics on the surplus space of Class B and Class C multi-tenant office space in Sunnyvale stating that generally Sunnyvale is not known for having an abundance of this kind of space available. He also added that he would like to see the proposed site be considered Class B space rather than Class C. He stated that staff encourages ancillary uses but right now there is not enough Class A office space to justify all the ancillary uses. If you make all the area Class A first, no one will build a Class B site, because they will be priced out of the market. The applicant believes the proposal is well thought out and a good use of the facilities.

Chair Moylan asked Mr. Deveau if he was contesting staff's assertion that there is a surplus of Class C space in Sunnyvale as the site has been vacant for two years. The applicant explained that the two buildings were occupied by one tenant that vacated the entire site. The sites were finally purchased by the applicant group. Mr. Deveau shared details about the positive features of these buildings and the sites, reasons why he believes the proposed units will be good investments for purchasers and other factors that convinced him to be an investor in this project. Chair Moylan commented that staff's concern is, if the

sites are broken into small units now it would be difficult to reassemble them again into larger units in the future.

Comm. Hungerford questioned the applicant about leasing vs. purchasing benefits and whether the project would be viable if the applicant changed to long-term leasing instead of selling the condominiums. Mr. Deveau said their projected selling price is a little under market for similar spaces and until the project is put on the market it is hard to know how successful sales would be. Leasing might be a possibility except the leasing market hasn't quite recovered and isn't what the applicants had in mind.

Comm. Simons confirmed with the applicant that their target is to sell rather than lease and that the applicant doesn't see how this site could ever be considered Class A, due to the smaller size. Comm. Simons commented that he noticed leasing is stagnant in all categories right now and that it seems short term sales of buildings is currently more viable. He also commented that the long term implications of breaking up the site and selling the units would make it difficult to assemble these properties in the future. Mr. Deveau commented that the City has a plan in mind to reconfigure the developments along the transportation area but feels the big parcels will sell first and that their parcel is one of the smallest.

Greg Galasso, real estate broker for the project, displayed a map showing the number of owners in and around the area of their project and the TOD area. He speculated that there are possibly eight to twelve owners that the City would have to deal with to assemble this area to Class A and felt this would be something that is still years away. Some of the neighboring owners are very happy with their real estate. The applicant considered whether to transfer their development rights. After review, it seemed like better strategy to keep the development rights making it less complicated if the City was ready to assemble properties in the future.

Chair Moylan closed the public hearing.

Comm. Hungerford asked staff to comment about the vacancy rate in Moffett Park. Ms. Ryan commented that the vacancy rate is high everywhere and is running at about a 25% average. She clarified that earlier the applicant was talking about multi-tenant buildings when he was referring to vacancy rates. She also clarified several terms used in the discussion, differentiating between industrial and commercial, residential and commercial and Class A, B and C office buildings. She commented that the applicant had expressed that they would like their site to be designated as Class B but that the City Economic Development Department (EDD) staff determines this and these buildings are Class C, consistent with how EDD describes other buildings.

Chair Moylan asked staff if this particular site would be under parked if it were redeveloped (as a Class A), as the applicant suggested. Staff agrees that if this site was redeveloped to reach the higher FAR (Class A) on its own, it would not have room for adequate parking.

Comm. Klein requested feedback on what makes a building Class C vs. Class B. Ms. Ryan stated that it is listed in the MPSP but single-story tilt-ups are classified as Class C.

Comm. Hungerford asked staff for confirmation of the source of highlighted text in the applicant's supporting documentation regarding ancillary uses and Guiding Principle 2.0 and if it applied to the transit district. Staff confirmed that the text in question is language from the MPSP and that the "Encourage and support emerging industries" language of the MPSP would apply to the transit district.

Chair Moylan asked staff where the nearest transit station is to this site. Staff said it is on Borregas. He also asked if this item was final or appealable. Staff said the decision can be appealed to the City Council within 15 days.

Comm. Hungerford moved for Alternative 2 to approve with conditions, granting the appeal. Comm. Sulser seconded.

Comm. Hungerford stated that the project is consistent with the MPSP and since the buildings have been sitting vacant for two years it seems like it is time to create activity in that area. Though the goal is to have big companies come in, it just isn't happening.

Comm. Babcock was unable to make the findings and wants to see the application denied. She doesn't think it is consistent with the MPSP and feels if we don't hold fast the goal we will lose control of area.

Comm. Simons agreed with Comm. Babcock and was unable to make the findings. Though it seems to be a viable short-term option, it is counter to the City's long-term goals as it would be difficult in the future to assemble the land for redevelop if there were multiple owners.

Comm. Fussell will be supporting the motion as he feels the project does meet the findings, specifically, that the ancillary uses are encouraged and Guiding Principle 2.0 does not say exclusively Class A facilities.

Chair Moylan will support the motion. Both staff and the appellants have made excellent points. The key point that he saw was that these two parcels alone could not result in the vision that the City has for this area. It would require assemblage of many properties and it would be good to have the vacant property taken care of.

Final Motion:

Comm. Hungerford made a motion on Item 2005-0029 for Alternative 2, to approve the Parcel Map with attached conditions, granting the appeal. Comm. Sulser seconded.

Motion carried 4-3 with Comm. Babcock, Comm. Klein and Comm. Simons dissenting.

Ms. Ryan stated that the decision is final unless appealed to the City Council with a payment of the appeal fee within the 15-day appeal period.